

**Iowa Department of Natural Resources
Environmental Protection Commission**

ITEM

8

DECISION

TOPIC

Final Rule - Chapter 64 – Sewer Extension Construction Permit Provisions

The Commission is requested to approve the attached Final Rule, which amends Chapter 64 “Wastewater Construction and Operation Permits” of the Iowa Administrative Code (IAC). The Commission approved the Notice of Intended Action at its December meeting. The purpose of the amendment to subrule 64.2(10) is to revise and clarify the criteria for sewer extension construction permit approval and denial provisions. Sewer extension permits are issued by the DNR to allow communities and developers to construct new sanitary sewer collection and conveyance systems and transport the additional domestic, commercial, and/or industrial wastes to the wastewater treatment facilities for treatment and disposal. The amendment will modify section 64.2(10) to include new approval and denial language, modernize, and simplify the rule.

The concerns for the existing rule include the following:

1. The current rule criteria allows for significant effluent degradation from treatment facilities and potentially serious water quality impacts to the receiving waters resulting from overloaded or inadequate wastewater treatment before consideration can be given to denying construction permits that would exacerbate the impacts by allowing additional loads to increase the source of the problem.
2. The application of the current rule is complicated by provisions that allow for varying ranges of noncompliance for facility categories that are difficult to determine or are outmoded. These include references to conditions that have outlived their usefulness or reasonableness such as facilities permitted with or without EPA construction grants before or after 1973. Essentially all facilities that have treatment needs have had opportunity for financial assistance of some type since 1972.
3. The current rule does not address the entire scope of water quality based effluent limits for compliance assessment.
4. The current rule contains distinctions between private and public wastewater treatment and disposal systems.

Proposed revisions use a criterion of “substantial compliance” for construction permit denial. Substantial compliance gives a reasonable allowance for exceedances and is a term consistent with other compliance activities. Substantial noncompliance is expected to trigger corrective action. Proposed revisions include considerations for circumstances of various types of bypassing and whether or not the system is in the planning process or on a schedule for improvements. The concept is to provide an easily interpreted, reasonable rule that does not allow unlimited additions of wastewater loadings without the expectation or incentive to provide

adequate treatment of wastewater from the service area. The draft also removes the distinction between public and private facilities and the financing source for their construction.

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Wastewater Construction Section
Water Quality Bureau
Environmental Services Division

February 12, 2007

ENVIRONMENTAL PROTECTION COMISSION [567]

Adopted and Filed

Pursuant to the authority of Iowa Code Section 455B.173(3) and 455B.105(11), the Environmental Protection Commission hereby amend Chapter 64, “Wastewater Construction and Operation Permits”, Iowa Administrative Code.

These amendments to subrule 64.2(10) revises and clarifies the criteria for sewer extension construction permit approval and denial provisions. Sewer extension permits are issued by the DNR to allow communities and developers to construct new sanitary sewer collection and conveyance systems and to transport additional domestic, commercial, and industrial wastes to the wastewater treatment facilities for treatment and disposal. The amendment also modifies subrule 64.2(10) to include new permit approval and denial language and to update and simplify the rule.

The Notice of Intended Action was published in the Iowa Administrative Bulletin on January 3, 2007, as ARC 5639B. A public hearing was held on January 24, 2007. No comments were received during the hearing or the public comment period, which ended January 26, 2007. The amendments are identical to those published under Notice.

These amendments were adopted by the Commission on March 6, 2007.

This amendment is intended to implement Iowa Code chapter 455B.173(3) and 455B.105(11).

These amendments shall become effective May 2, 2007.

The following amendment is adopted.

Amend subrule 64.2(10) as follows:

64.2(10) Applications for sanitary sewer extension construction permits shall conform to the Iowa Standards for Sewer Systems, and approval shall be subject to the following:

~~a. In no case will construction permits be granted when the department determines that:~~

~~(1) The requested extension would be tributary to a sewer, lift station or sewage treatment facility which bypasses wastewater even though there was no rainfall or surface runoff due to melting snow within 48 hours prior to the bypassing.~~

~~(2) The treatment works' effluent has exceeded 150 mg/l BOD5 at least once per month for 4 months within the last 12 months, when discharge occurred; or~~

~~(3) The treatment works' efficiency is less than 25 percent at least once per month for 4 months within the last 12 months when discharge occurred.~~

~~b. A sanitary sewer extension construction permit for a public treatment system constructed with grants offered before January 1, 1973, or under a construction permit issued before January 1, 1973, will be denied if, at the time of application:~~

~~(1) The treatment works' effluent has exceeded 100 mg/l BOD5 at least once per month for 4 months within the last 12 months when discharge occurred; or~~

~~(2) The treatment works efficiency is less than 50 percent at least once per month for 4 months within the last 12 months when discharge occurred.~~

~~If the system is operating under a compliance schedule which is being adhered to, or the applicant can demonstrate that the problem has been identified, the planning completed, and corrective measures initiated, construction permits may be granted to serve not more than a cumulative total 10 percent increase in population equivalent over the load existing at the time the violations of 64.2(10)“b”(1) or (2) were identified.~~

e ~~a.~~ A sanitary sewer extension construction permit ~~for a treatment system constructed with grant funds offered after December 31, 1972, or a public nongrant treatment system constructed under a construction permit issued after December 31, 1972,~~ will ~~may~~ be denied if, at the time of application, ~~either of the following operation permit violations exist:~~

(1) ~~Flow limitations have been exceeded at least once per month for more than 4 months within the last 12 months; or~~

(2) ~~BOD5 limitations have been exceeded at least once per month for more than 4 months within the last 12 months when discharge occurred.~~ the treatment facility treating wastewater from the proposed sewer is not in substantial compliance with its operating permit or if the treatment facility receives wastes in volumes or quantities that exceed its design capacity and interfere with its operation or performance.

If the applicant ~~can show that the influent dry weather flow and influent dry weather BOD5 do not exceed the plant design capacity and the system~~ is operating under a compliance schedule which is being adhered to that leads to resolution of the substantial compliance issues or if the applicant can demonstrate that the problem has been identified, the planning completed, and corrective measures initiated, then the construction permits permit may be granted ~~to increase the total load to not more than the design organic and dry weather hydraulic capacity of the treatment works.~~

d ~~b.~~ A sanitary sewer extension construction permit ~~for any public treatment system will~~ may be denied if bypassing has occurred at the treatment ~~plant~~ facility, except when any of the following conditions are being met:

(1) The bypassing is due to a combined sewer system, and the facility is in compliance with a long-term CSO control plan approved by the department.

(2) The bypassing occurs as a result of a storm with an intensity or duration greater than that of a storm with a return period of five years. (See App. A)*)

(3) The department determines that timely actions are being taken to ~~correct~~ eliminate the bypassing.

~~e. A sanitary sewer extension construction permit for any private treatment system will be denied if the effluent quality does not comply with 567—Chapter 62, unless the owner of the system agrees to a schedule which requires the treatment facility to be upgraded so that the effluent quality limitations will be met by the time the proposed sewer extension is connected.~~

~~f c.~~ c. A sanitary sewer extension construction permit ~~will~~ may be denied if an existing downstream sewer is or will be overloaded or surcharged, resulting in bypassing, flooded basements, or overflowing manholes, unless:

(1) The bypassing or flooding is the result of a precipitation event with an intensity or duration greater than that of a storm with a return period of two years. (See App. A*); or

(2) The system is under full-scale facility planning (I/I and SSES) ~~or~~ and the applicant provides ~~an acceptable~~ a schedule that is approved by the department for rehabilitating the system to the extent necessary to handle the additional loadings.

~~g d.~~ d. Potential loads. Construction permits may be granted for sanitary sewer extensions that are sized to serve future loads that would exceed the capacity of the existing treatment works. However, initial connections shall be limited to the load that can be handled by the existing treatment works. The department will determine this load and advise the applicant of the limit. This limitation will be in effect until additional treatment capacity has been constructed.

Date

Richard Leopold, Director